

STEVENSON MARINOLLP

Jeffrey R. Maguire, Esq., Partner o: (212) 939-7229 f: (212) 531-6129
a: 75 Maiden Lane, Suite 402, New York, NY 10038 e: jmaguire@stevensonmarino.com

February 3, 2021

Via ECF

The Honorable Katherine Polk Failla
United States District Judge for the
Southern District of New York
40 Foley Street
New York, New York 10007

MEMO ENDORSED

Re: *Hurtado v. 183 Food Market Corp., et al.*
Docket No: 20-cv-7988 (KPF)(KHP)

Dear Judge Failla:

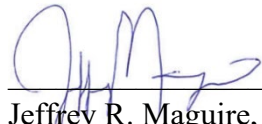
We represent Plaintiff, Felipe Hurtado, and the opt-in Plaintiff, Leonardo Pena (together as “Plaintiffs”), in the above-referenced matter alleging wage and hour claims against their former employers, 183 Food Market Corp., and Roberto Espinal (collectively as “Defendants”) under the Fair Labor Standards Act and the New York Labor Law. We write now to apprise the Court of the status of the matter, and respectfully request that the Court provide Plaintiffs fourteen days to submit a status report with respect to the parties’ agreement to stipulate to conditional certification of a collective action pursuant to 29 U.S.C. § 216(b). Plaintiffs additionally request thirty days from the filing date of the proposed status report to either file a stipulation or to file a motion for conditional certification.

On November 11, 2020, the Court referred this matter to the Southern District’s mediation program for the purposes of early resolution. On December 15, 2020, a mediator was assigned to the case and the parties participated in a joint call on December 29, 2020. During the call, the parties informed the mediator that counsel was in the process of exchanging information in order to evaluate Plaintiffs’ claims and to facilitate discussion on potential class resolution. The mediator and all parties agreed to schedule a subsequent call to provide Defendants with additional time to gather the relevant information. Subsequently, due to health issues arising as a result of the Covid-19 pandemic, Defendants required more time to complete the review on their end. Ultimately, on February 2, 2021, Defendants informed Plaintiffs that class resolution was not an option at this early stage.

Plaintiffs and Defendants then discussed conditional certification of a collective action pursuant to 29 U.S.C. § 216(b). The parties agreed that Plaintiffs will draft and provide the relevant documents for Defendants' review, including the proposed stipulation and notice, and Defendants will consider stipulating to distribute notice with the Court's approval to the putative members of the collective. Accordingly, Plaintiffs respectfully request fourteen days, until February 17, 2021, to submit a status report apprising the Court as whether the parties have agreed to stipulate to conditional certification. Additionally, Plaintiffs respectfully request thirty days from the date of the filing of Plaintiffs' status report to either submit the stipulation with the accompanying documents, or to move for conditional certification.

We thank the Court for its time and attention to this matter.

Respectfully submitted,



Jeffrey R. Maguire, Esq.
For the Firm

To: Defendants' Counsel *via* ECF

Application GRANTED. The parties are directed to adhere to the deadlines outlined in the above letter. Moreover, the Court hereby VACATES the November 11, 2020 Mediation Referral Order (Dkt. #13).

Dated: February 4, 2021
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE